

[Complete list of counsel on signature page]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

AUGME TECHNOLOGIES, INC.,

Plaintiff,

v.

YAHOO! INC.,

Defendant.

CASE NO. C 09-5386 JCS

**STIPULATION AND ~~PROPOSED~~
ORDER ENLARGING TIME FOR FACT
DISCOVERY**

Judge: Hon. Magistrate Joseph C. Spero

YAHOO! INC.,

Counterclaim Plaintiff,

v.

AUGME TECHNOLOGIES, INC. and
WORLD TALK RADIO, LLC,

Counterclaim Defendants.

STIPULATION AND ~~PROPOSED~~ ORDER ENLARGING TIME FOR FACT DISCOVERY

Case No. C 09-5386 JCS

LIBA/2269946.1

sf-3119801

Pursuant to Civil Local Rules 6-1(b), 6-2, and 7-12, the parties, through their undersigned counsel, hereby stipulate, subject to the Court's approval, as follows:

WHEREAS, following the Further Case Management Conference held on January 6, 2012, the Court Ordered the following dates regarding the Augme Patents:

<u>Event</u>	<u>Date</u>
Discovery cutoff	March 16, 2012
Opening Expert Reports by party with burden of proof	March 28, 2012
Expert Reports by party with no burden of proof	April 27, 2012
Expert Discovery Cutoff	May 18, 2012
File Dispositive Motions	June 1, 2012
Opposition to Dispositive Motion	June 15, 2012
Reply to Dispositive Motion	June 22, 2012
Motions Hearing	July 20, 2012
Pretrial Conference	December 7, 2012
Trial Date	January 7, 2013

(Docket Nos. 220-222);

WHEREAS, the parties agree to extend the close of fact discovery for the Augme Patents on a limited basis as set forth below to April 4, 2012;

WHEREAS, the parties agree that as a result of the limited extension of fact discovery, it is reasonable and necessary to also extend the date of Opening Expert Reports to April 20, 2012, Responsive Expert Reports to May 18, 2012, close of expert discovery to June 7, 2012;

WHEREAS, the parties agree that as a result of the foregoing extensions, it is reasonable and necessary to also extend the date for filing dispositive motions by one week to June 8, 2012, oppositions to dispositive motions to June 22, 2012, and replies in support of dispositive motions

1 to June 29, 2012;

2 WHEREAS, no other scheduled dates in this action will be changed due to this extension,
3 but the parties note that the proposed extension will result in one week less between the date
4 Dispositive Motion briefing is complete (proposed June 29, 2012) and the Court's scheduled
5 Motions Hearing on July 20, 2012; and

6 WHEREAS, the parties believe that an expedited process is necessary to resolve discovery
7 issues that may arise going forward:

8 THEREFORE, based on the parties agreement and the attached Declaration of Gregory S.
9 Bishop, the parties request the entry of an order setting forth the following:

<u>Event</u>	<u>Date</u>
Discovery cutoff for the limited purpose of completing the depositions set forth below and any necessary follow-on discovery on the topics listed.	April 4, 2012
Opening Expert Reports by party with burden of proof	April 20, 2012
Expert Reports by party with no burden of proof	May 18, 2012
Expert Discovery Cutoff	June 7, 2012
File Dispositive Motions	June 8, 2012
Opposition to Dispositive Motion	June 22, 2012
Reply to Dispositive Motion	June 29, 2012

22 (1) The deposition of Vince Li may be taken within the extended discovery period.
23 Augme reserves all rights to object to supplementation of Yahoo's Invalidity Contentions with
24 testimony received from Mr. Li and reserves all rights to preclude Yahoo from including such
25 testimony in Yahoo's expert report. Mr. Li will not be producing documents.

26 (2) Augme agrees to remove the confidentiality designation for certain portions of the

1 deposition testimony of Messrs. Bradley, McCollum and Burgess as set forth in Ryan Gilfoil's
2 letters of February 29, 2012 and March 7, 2012.

3 (3) In the event that additional discovery disputes arise during the discovery period related
4 to damages (including but not limited to Augme's ongoing request to inspect Yahoo's databases in
5 their native format), the Parties will comply with the Court's requirement to meet and confer in
6 person in an attempt to resolve the issue before preparing a joint letter to the Court on an expedited
7 basis. Within three days of receiving a request to meet and confer in person, lead counsel will
8 endeavor to make themselves available for such meeting and if the issue is not resolved, the
9 parties will prepare a joint letter to the Court within the three-day window. Recognizing that lead
10 counsel for both parties have travel obligations during this time period, the lead counsel role may
11 be filled, if actual lead counsel is not available during the three-day window, by another partner
12 from Goodwin Procter, LLP or Morrison and Foerster, LLP that has entered an appearance in the
13 case and has authority to make a decision regarding the issue to be decided.

14 (4) If Yahoo is unable to complete production of documents related to the Nelson
15 Deposition prior by March 15, 2012, the parties will work together in good faith to reschedule Mr.
16 Nelson's deposition.

17 (5) The following depositions shall proceed according to the schedule set forth in the table
18 below, subject to further mutual agreement by the parties.

<u>Witness</u>	<u>Topic</u>	<u>Date</u>
Eaton	Augme's 2nd 30(b)(6) Deposition Notice, Topics 4-11, 14	March 13, 2012
Danchanka	3rd party deposition Also, Augme's 2nd 30(b)(6) Deposition Notice, limited to the location and production by Yahoo! of	March 14, 2012

	additional Blue Lithium source code on March 2, 2012	
Nelson	Augme's 2nd 30(b)(6) Deposition Notice, Topics 1-3, 13, 15-16	March 20, 2012
Chandra	Augme's 3rd 30(b)(6) Deposition Notice, Topics 1-3	March 26, 2012
Yeh	Augme's 2nd 30(b)(6) Deposition Notice, Topic 12	March 27, 2012
Cofer (or other witness)	Rule 30(b)(6) testimony regarding the facts, circumstances and persons most knowledgeable about Yahoo! ad-serving statistical data and databases, including TAO and Diego.	TBD
Li	3rd party witness	TBD

Dated: March 13, 2012

Respectfully submitted,

By: /s/ Gregory S. Bishop

Thomas J. Scott Jr. (pro hac vice)
tscott@goodwinprocter.com
Jennifer A. Albert (pro hac vice)
jalbert@goodwinprocter.com
GOODWIN PROCTER LLP
901 New York Avenue NW
Washington, DC 20001
Tel.: (202) 346-4000; Fax: (202) 346-4444

Erica D. Wilson (SBN 161386)
ewilson@goodwinprocter.com
Gregory S. Bishop (SBN 184680)
gbishop@goodwinprocter.com

Charles F. Koch (SBN 256683)
ckoch@goodwinprocter.com
Rebecca Unruh (SBN 267881)
runruh@goodwinprocter.com
GOODWIN PROCTER LLP
135 Commonwealth Drive
Menlo Park, California 94025-1105
Tel.: (650) 752-3100; Fax: (650) 853-1038

Michael Strapp (pro hac vice)
mstrapp@goodwinprocter.com
GOODWIN PROCTER llp
Exchange Place
53 State Street
Boston, MA 02109
Tel.: 617.570.1000; Fax: 617.523.1231

Attorneys for Plaintiff and Counterclaim
Defendant AUGME TECHNOLOGIES, INC.
and Counterclaim Defendant
WORLD TALK RADIO, LLC

Dated: March 13, 2012

Respectfully submitted,

By: /s/ Rachel Krevans

Rachel Krevans (116421)
rkrevans@mofo.com
Richard S.J. Hung (197425)
rhung@mofo.com
Daniel P. Muino (209624)
dmuino@mofo.com
J. Ryan Gilfoil (246493)
jgilfoil@mofo.com
John K. Blake, Jr. (262906)
jblake@mofo.com
MORRISON & FOERSTER LLP
425 Market Street, 32nd Floor,
San Francisco, California 94105-2482
Tel.: 415.268.7000
Fax: 415.268.7522

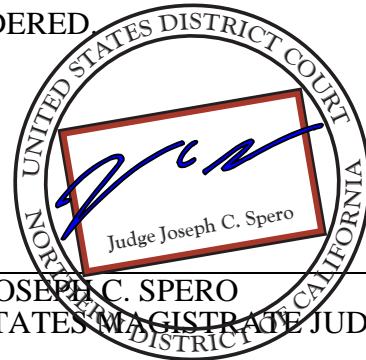
Attorneys for Defendant and Counterclaim
Plaintiff YAHOO! INC.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

[~~PROPOSED~~ ORDER]

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Date: March 14, 2012



JOSEPH C. SPERO
UNITED STATES MAGISTRATE JUDGE

GENERAL ORDER 45 ATTESTATION

I, J. Ryan Gilfoil, am the ECF User whose ID and Password are being used to file this

**STIPULATION AND [PROPOSED] ORDER ENLARGING TIME FOR FACT
DISCOVERY**

In compliance with General Order 45, X.B., I hereby attest that Rachel Krevans and Gregory S.
Bishop have concurred to its filing.

Dated: March 13, 2012

/s/ J. Ryan Gilfoil

J. Ryan Gilfoil